

Appl. No. 10/790,990
Response dated October 2, 2008
Reply to Office Action of May 2, 2008

REMARKS

This is in response to the Office Action dated May 2, 2008. Claims 1-41 are pending in the application and all claims are rejected.

At page 2 of the Office Action, the Examiner issued a nonstatutory obviousness-type double patenting rejection. The Examiner indicated that claims 1-41 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the claims of U.S. Patent No. 5,813,321. A Terminal Disclaimer is being filed herewith.

The Examiner indicated at page 3 of the Office Action that claims 1-41 were rejected under 35 U.S.C. §102(b) as being clearly anticipated by either one of the King Kooker brochures for the reasons set forth on page 3 of the Office Action, mailed March 7, 2006.

Each of the claims have been amended to point out that applicant's invention includes a plurality of food holding inserts that fit the pot interior, wherein a first insert is selectively connectable to and supported by a second insert, the second insert being configured to support a food item when not connected to the first insert. Each independent claim is thus believed allowable. New claims 42-44 specify the first insert as a steamer plate (see figures 1, 7). New claims 45-47 specify the first insert being spaced above the pot bottom (see figure 7). New claims 48-50 specify that one of the inserts has a central support that is configured to support a turkey carcass. New claims 51-53 specify that the first insert is a steamer plate connectable to the central support of the second insert. New claims 54-56 specify that the steamer plate has a central opening that accepts the central support of the second insert. New claims 57-59 relate to connectability of the second insert to a lifting hook. New claims 60-62 specify that the pot has a diameter and height greater than the diameter. New claims 63-65 specify that the second insert has a height that is greater than the pot diameter.

The Examiner is requested to reconsider the rejection based upon the King Kooker brochures of record. At page 1 of the application, in cross reference to related applications, notice that the earliest filed application of March 10, 1997 pre-dates any of the brochures of record. The subject

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matter contained in each of the independent claims, namely the newly added element “f” of claim 1, “e” of claim 13, “f” of claim 25 find support in that original disclosure. Therefore it is believed that the claims are patentable over the art of record.

An IDS that was filed on April 7, 2008 that submitted art that was forwarded by opposing counsel in pending litigation before the U.S. District Court for the Eastern District of Louisiana and relating to a patent issued in a parent case. A typographical error was made on the previously filed IDS, therefore a new IDS is being filed herewith.

Applicant respectfully submits that the application is in condition for allowance. A Notice of Allowance is hereby respectfully requested.

Should the Examiner feel that a telephone conference would advance the prosecution of this application, he is encouraged to contact the undersigned at the telephone number listed below.

Applicant respectfully petitions the Commissioner for any extension of time necessary to render this paper timely.

The requisite fees of \$1,119 are being charged to Deposit Account No. 50-0694. Please charge any additional fees due or credit any overpayment to Deposit Account No. 50-0694.

Respectfully submitted,

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